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Michael E Kasten JR.

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EXAMINER

PICO, ERIC E

ART UNIT

PAPER NUMBER

3654

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/502,067

Applicant(s)

KASTEN ET AL.

Examiner

ERIC PICO

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claim(s) 1, 2, 4, 7-9, 11-13, 15, 17, 20-22, and 24** is/are rejected under 35 U.S.C. 103(a) as being unpatentable over DeLeo et al. U.S. Patent No. 6042327 in view of Kang U.S. Patent No. 4785906.
3. **Regarding claim 1**, DeLeo et al. discloses an assembly capable of moving a passenger from a first surface to an adjacent second surface wherein the surfaces are located at different vertical levels, the assembly comprising:
4. an electrical system, Column 2, Line 27;
5. a platform 14 moveable to transport the passenger between the surfaces, the platform 14 having an inboard end 14, an outboard end 16, and two opposing sides 18, 20 the inboard end 14 closer to the first surface than the outboard end 16;
6. an arm 36, 38 coupled to the platform 22 and to the first surface, the arm 36, 38 moveable to transfer the platform 22 between the surfaces;
7. a passenger support 48, 50 located above the platform 22;
8. a safety restraint system coupled to the passenger support 48, 50, the safety restraint system comprising:
9. a belt 59 coupled to the passenger support 50 in a first location;

10. a buckle releasably engagable with the belt 59 and coupled to the passenger support 48 in a second location;
11. a motive source 24 coupled to the electrical system and operable to move the arm 36, 38.
12. DeLeo et al. is silent concerning a current path having an open state and a closed state defined in part upon the releasable engagement between the buckle and the belt, the current path closed upon engagement between the buckle and the belt; and a motive source coupled to the electrical system and operable to move the arm, the motive source incapable of initiating movement of the arm when the current path is open and capable of initiating movement when the current path is closed, the motive source capable of continuing movement of the arm regardless of the current path state within the buckle once movement is initiated.
13. Kang teaches a current path, Column 2, Lines 10-19, having an open state and a closed state defined in part upon the releasable engagement between the buckle 1 and the belt 15, the current path closed upon engagement between the buckle 1 and the belt 15; and
14. a motive source, referred to as an engine, coupled to the electrical system and operable to move a vehicle, the motive source incapable of initiating movement of the vehicle when the current path is open and capable of initiating movement when the current path is closed, the motive source capable of continuing movement of the vehicle regardless of the current path state within the buckle 1 once movement is initiated, Column 2, Lines 55-57.

15. It would have been obvious to one of ordinary skill in the art at the time of the invention to make the motive source disclosed by DeLeo et al. capable of continuing movement of the arm regardless of the current path state within the buckle once movement is initiated as taught by Kang to facilitate safety of the passenger lift.

16. **Regarding claim 2**, DeLeo et al. discloses wherein the platform 22 further comprises side barriers 18, 20 located near the opposing sides and a roll stop 16 located near the outboard end.

17. **Regarding claim 4**, DeLeo et al. discloses a bridge plate 14 pivotally coupled to the inboard end of the platform 22 and positionable to bridge a gap between the platform 22 and the first surface.

18. **Regarding claim 7 and 20**, DeLeo et al. discloses wherein the motive source comprises a hydraulic pump in fluid communication with a hydraulic cylinder 28, 30 coupled to the arm 36, 38.

19. **Regarding claim 8, 12 and 21**, DeLeo et al. is silent concerning the safety restraint system further comprises a current flow control device coupled to the current path, the current flow control device comprising a silicon controlled rectifier diode that controls current flow to the motive source of the electrically operated lift system.

20. A current flow control device comprising a silicon controlled rectifier diode commonly known as an SCR is notoriously old and well known in the art of electrical circuits to control current flow, referred to in U.S. Patents 3244965, 3275909, 3302031, 3437911, and 3463970.

21. It would have been obvious to one of ordinary skill in the art at the time of the invention to couple a current flow control device comprising a silicon controlled rectifier diode to the current path disclosed by DeLeo et al. to control current flow to the motive source.

22. **Regarding claim 9**, DeLeo et al. is silent concerning wherein the safety restraint system further comprises a lock electrically coupled to the electrical system, the lock preventing disengagement between the belt and the buckle in response to a signal from the electrical system during movement of the platform.

23. Kang teaches wherein the safety restraint system further comprises a lock 13 electrically coupled to the electrical system, via microswitch 9, the lock 13 preventing disengagement between the belt 14 and the buckle 1 in response to a signal from the electrical system during movement of the vehicle.

24. It would have been obvious to one of ordinary skill in the art at the time of the invention to make the motive source disclosed by DeLeo et al. capable of continuing movement of the arm regardless of the current path state within the buckle once movement is initiated as taught by Kang to facilitate safety of the passenger lift.

25. **Regarding claim 11**, DeLeo et al. discloses a safety restraint system usable with an electrically operated lift system, the safety restraint system comprising:

26. a belt 59; and

27. a buckle releasably engagable with the belt 59, shown in Figure 1.

28. DeLeo et al. is silent concerning a current path defined within the buckle and coupled to the electrically operated lift system, the current path having an open state

and a closed state defined in part upon the releasable engagement between the buckle and the belt, the current path closed upon engagement between the buckle and the belt, the electrically operated lift system incapable of initiating movement when the current path is open and capable of initiating movement when the current path is closed, the electrically operated lift system capable of continuing movement regardless of the current path state within the buckle once movement is initiated

29. Kang teaches a safety restraint system usable with an electrically operated system, the safety restraint system comprising:

30. a belt 15; and

31. a buckle 1 releasably engagable with the belt 15 and having a current path, Column 2, Lines 10-19, defined within the buckle 1 and coupled to the electrically operated lift system, the current path having an open state and a closed state defined in part upon the releasable engagement between the buckle 1 and the belt 15, the current path closed upon engagement between the buckle 1 and the belt 15, the electrically operated system incapable of initiating movement when the current path is open and capable of initiating movement when the current path is closed, the electrically operated lift system capable of continuing movement regardless of the current path state within the buckle 1 once movement is initiated, Column 2, Lines 55-57.

32. It would have been obvious to one of ordinary skill in the art at the time of the invention to make electrically operated lift system disclosed by DeLeo et al. capable of continuing movement regardless of the current path state within the buckle once movement is initiated as taught by Kang to facilitate safety of the passenger lift.

33. **Regarding claim 13 and 22**, DeLeo et al. discloses wherein the safety restraint system 59 further comprises a lock coupled to the buckle, the lock preventing releasable disengagement of the belt from the buckle during movement of the, lift system, and allowing releasable disengagement of the belt from the buckle when the lift system is at rest, Column 2, Lines 50-55.

34. **Regarding claim 15**, DeLeo et al. discloses a lift mountable onto a vehicle for transporting a passenger between the floor of the vehicle and the street, the lift comprising:

35. a platform 22 coupled to the vehicle and moveable between the floor and the street, the platform 22 having an inboard 14 and an outboard 16 end, the inboard end 14 closer to the floor than the outboard end 16;

36. a linkage 34 defined in part by two arms 36, 38 pivotally coupled between the platform 22 and the floor;

37. an electrically operated drive system coupled to the linkage 34 and actuatable to move the linkage 34;

38. a pair of handrails 48, 50 coupled to the platform 22;

39. a buckle coupled to one of the pair of handrails 48, shown in Figure 1;

40. a belt 59 coupled to the other of the pair of handrails 50 and removeably engaged with the buckle, the buckle and the belt 59 having an engaged state and a disengaged state; and

41. DeLeo et al. is silent concerning a user manipulable switch coupled to the electrically operated drive system, the switch having an open condition and a closed

condition, the drive system incapable of initiating actuation when the switch is in the closed condition and the buckle and belt are in the disengaged state, the drive system capable of initiating actuation when the switch is in the closed condition and the buckle and belt are in the engaged state, and the drive system capable of continuing actuation once begun when the switch is in the closed condition and the buckle and belt are in the disengaged state.

42. Kang teaches a user manipulable switch 9 coupled to the electrically operated drive system, the switch 9 having an open condition and a closed condition, the drive system incapable of initiating actuation when the switch 9 is in the closed condition and the buckle 1 and belt 15 are in the disengaged state, the drive system capable of initiating actuation when the switch 9 is in the closed condition and the buckle 1 and belt 15 are in the engaged state, and the drive system capable of continuing actuation once begun when the switch is in the open condition and the buckle 1 and belt 15 are in the disengaged state.

43. It would have been obvious to one of ordinary skill in the art at the time of the invention to make the drive system disclosed by Tremblay capable of continuing actuation once begun when the switch is in the closed condition and the buckle and belt are in the disengaged state as taught by Kang to facilitate safety of the passenger lift.

44. **Regarding claim 17**, DeLeo et al. discloses a bridge plate 14 pivotally coupled to the inboard end of the platform 22 and positionable to bridge a gap between the platform and the vehicle floor.

45. **Regarding claim 24**, DeLeo et al. discloses a method of moving a passenger between the ground and a vehicle, the method comprising:
- 46. moving the passenger onto a platform 22 coupled to the vehicle;
 - 47. buckling a seatbelt 59 about the passenger;
 - 48. actuating a switch to operate an electrical motive source 24 coupled to the platform 22;
 - 49. powering the motive source 24;
 - 50. lifting the platform 22 and the passenger between the ground and the vehicle;
- and
- 51. moving the passenger off the platform 22.
52. DeLeo et al. is silent concerning the motive source inoperable to move the platform from an at rest position without the seatbelt fastened and operable to move the platform from an at rest position with the seatbelt fastened, the motive source capable of being continually operable as the platform is moving regardless of the seatbelt being fastened.
53. Kang teaches the motive source, referred to as an engine, inoperable to move a vehicle from an at rest position without a seatbelt 15 fastened and operable to move the vehicle from an at rest position with the seatbelt 15 fastened, the motive source capable of being continually operable as the vehicle is moving regardless of the seatbelt 15 being fastened.
54. It would have been obvious to one of ordinary skill in the art at the time of the invention to make the drive system disclosed by DeLeo et al. capable of continuing

actuation once begun when the switch is in the closed condition and the buckle and belt are in the disengaged state as taught by Kang to facilitate safety of the passenger lift.

55. **Claims 3, 5, 6, 16, 18, and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over DeLeo et al. U.S. Patent No. 6042327 in view of Kang U.S. Patent No. 4785906 as applied to claim 1 above, and further in view of Goodrich U.S. Patent No. 5261779.

56. **Regarding claim 3**, DeLeo et al. is silent concerning a roll stop biased between two positions, the first position allowing items to be rolled on or off the outboard end and the second position preventing items from rolling on or off the outboard end.

57. Goodrich teaches the roll stop 112 is biased between two positions, the first position allowing items to be rolled on or off an outboard end and the second position preventing items from rolling on or off the outboard end, Column 10, Lines 29-31.

58. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the platform disclosed by DeLeo et al. with a roll stop as taught by Goodrich to prevent a wheelchair from rolling off the platform.

59. **Regarding claim 5 and 18**, DeLeo et al. is silent concerning an articulated lever assembly coupled to the platform, the lever assembly capable of moving the platform from a substantially horizontal position to a substantially vertical position.

60. Goodrich teaches an articulated lever assembly 129 coupled to the platform 113, the lever assembly 129 capable of moving the platform 113 from a substantially horizontal position to a substantially vertical position, shown in Figure 6C.

61. It would have been obvious to one of ordinary skill in the art at the time of the invention to couple an articulated lever assembly as taught by Goodrich to the platform disclosed by DeLeo et al. capable of moving the platform from a substantially horizontal position to a substantially vertical position to provide a storage position for the platform.

62. **Regarding claim 6 and 19**, DeLeo et al. is silent concerning a pressure switch coupled to the platform, the pressure switch prevents the platform from moving to the vertical position when the passenger is on the platform.

63. Goodrich teaches a pressure switch, referred to as a load sensing "disable" switch Column 12, Line 65, coupled to the platform 113 via articulated lever assembly, the pressure switch prevents the platform from moving to the vertical position when the passenger is on the platform, Column 12, Lines 65-68.

64. It would have been obvious to one of ordinary skill in the art at the time of the invention to couple a pressure switch as taught by Goodrich to the platform disclosed by DeLeo et al. to prevent the platform from moving to the vertical position when the passenger is on the platform.

65. **Regarding claim 16**, DeLeo et al. is silent concerning a roll stop located near the outboard end, the roll stop is biased between two positions, the first position allowing items to be rolled on or off the outboard end and the second position preventing items from rolling on or off the outboard end.

66. Goodrich teaches a roll stop 112 located near an outboard end, the roll stop 112 is biased between two positions, the first position allowing items to be rolled on or off

the outboard end and the second position preventing items from rolling on or off the outboard end, Column 10, Lines 29-31

67. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the platform disclosed by DeLeo et al. with a roll stop as taught by Goodrich to prevent a wheelchair from rolling off the platform.

68. **Claims 10, 14, and 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over DeLeo et al. U.S. Patent No. 6042327 in view of Kang as applied to claims 1, 11, and 15 above, and further in view of Budd et al. U.S. Patent No. 6077025.

69. **Regarding claim 10, 14, and 23**, Tremblay is silent concerning an alarm coupled to the safety restraint system, the alarm operable to indicate disengagement between the buckle and the belt.

70. Budd et al. teaches an alarm coupled to a safety restraint system, Column 6, Lines 50-53.

71. It would have been obvious to one of ordinary skill in the art at the time of the invention to couple an alarm as taught by Budd et al. to the safety restraint system disclosed by Tremblay to indicate disengagement between the buckle and the belt.

Response to Arguments

72. Applicant's arguments filed 5/15/2009 have been fully considered but they are not persuasive.

73. In response to applicant's argument that there is no suggestion to combine the references DeLeo et al. U.S. Patent No. 6042327 in view of Kang U.S. Patent No. 4785906, the examiner recognizes that obviousness can only be established by

combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Firstly, it should be noted that there is no requirement that an express, written suggestion to combine must appear in prior art references before a finding of obviousness. In addition to the teachings of the references themselves, the suggestion to combine references may be found in the nature of the problem to be solved or the knowledge of persons of ordinary skill in the art. Furthermore, while there must be a motivation to make the claimed invention, there is no requirement that the prior art provide the same reason as the applicant to make the claimed invention. In this case, the suggestion to combine DeLeo et al. U.S. Patent No. 6042327 in view of Kang U.S. Patent No. 4785906 comes from the teachings of Kang to allow a vehicle to continue to operate after a safety belt is unbuckled for safety purposes, Column 2, Lines 55-57.

Conclusion

74. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC PICO whose telephone number is (571)272-5589. The examiner can normally be reached on 6:30AM - 3:00PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Nguyen can be reached on 571-272-6952. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/John Q. Nguyen/
Supervisory Patent Examiner, Art Unit 3654

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